

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

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|-------------------------------------|---|-------------------------------------|
| THE HOLMES GROUP, INC., | : | |
| | : | |
| Plaintiff/Counterclaim-Defendant, | : | Civil Action No. 1: 05-CV-11367 WGY |
| | : | (Alexander, M.J.) |
| v. | : | |
| | : | |
| WEST BEND HOUSEWARES, LLC and | : | |
| FOCUS PRODUCTS GROUP, L.L.C., | : | |
| | : | |
| Defendants/Counterclaim-Plaintiffs. | : | |

**HOLMES' MOTION FOR SUMMARY JUDGMENT OF
NON-INFRINGEMENT OF WEST BEND'S DESIGN PATENTS**

Plaintiff, The Holmes Group, Inc., now known as Sunbeam, Inc., d/b/a/ Jarden Consumer Solutions, (hereinafter "Holmes") brought this action against Defendants West Bend Housewares, LLC and Focus Products Group, LLC (collectively referred to as "West Bend") for infringement of Holmes' U.S. Patent Nos. 6,573,483 and 6,740,855 ("the '483 Patent" and "the '855 Patent," respectively). By way of its Answer and Counterclaims, West Bend has alleged infringement of these design patents by Holmes. Holmes denies infringing the West Bend design patents-in-suit and seeks costs and attorney's fees for West Bend's frivolous assertion of its design patents as detailed in Holmes' accompanying memorandum in support of this motion.

CONCLUSION

For the reasons set forth in the accompanying memorandum and supporting documents, Holmes respectfully requests the Court to grant Holmes' motion of non-infringement of the West Bend patents-in-suit and award Holmes its costs and attorneys' fees.

Respectfully submitted,

SUNBEAM PRODUCTS, INC.,
d/b/a JARDEN CONSUMER SOLUTIONS
f/k/a THE HOLMES GROUP
By its Attorneys,

Dated: December 1, 2006

/s/ Glenn T. Henneberger
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LOCAL RULE 7.2 CERTIFICATE

The undersigned certify that, on November 28, 2006, counsel for the parties conferred in person in a good faith attempt to resolve or narrow the issues presented in this motion but were unable to reach agreement.

Respectfully submitted,

SUNBEAM PRODUCTS, INC.,
d/b/a JARDEN CONSUMER SOLUTIONS
f/k/a THE HOLMES GROUP
By its Attorneys,

Dated: December 1, 2006

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on December 1, 2006.

/s/ Glenn T. Henneberger
Glenn T. Henneberger